

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN J. BENNETT,	:	3:17-cv-2031
	:	
Plaintiff,	:	Hon. John E. Jones III
	:	
v.	:	
	:	
TROOPER JAMIE LOPEZ, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

December 8, 2020

AND NOW, upon consideration of the Report and Recommendation of United States Magistrate Judge Martin C. Carlson (Doc. 91), recommending that the parties' cross-motions for summary judgment (Docs. 62, 68, 74) be denied, and noting that parties filed objections to the report,¹ and the Court finding Judge Carlson's analysis to be thorough, well-reasoned, and fully supported by the record, and the Court further finding parties' objections to be without merit,²

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. *Supinski v. United Parcel Serv.*, Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing *Sample v. Diecks*, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" *Id.* (citing *Shields v. Astrue*, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

² Despite the parties' extensive arguments in favor of their individual interpretations of the incident giving rise to Plaintiff's excessive force claim, it is clear to the Court that there remain disputed factual questions of a material nature that must be decided by jury.

IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation of Magistrate Judge Carlson (Doc. 91) is **ADOPTED** in its entirety.
2. The parties' cross-motions for summary judgment (Docs. 62, 68 and 74) are **DENIED**.
3. Within ten (10) days of the date of this Order, the parties shall file a stipulation as to a trial month in 2021.
4. Should the parties desire to convene a settlement conference with Magistrate Judge Carlson, they shall file a letter on the docket so advising the Court.

s/ John E. Jones III
John E. Jones III, Chief Judge
United States District Court
Middle District of Pennsylvania